

Before the  
Federal Communications Commission  
Washington, D.C. 20554

OCT 7 2002

In the Matter of	)	
	)	
Request for Waiver by	)	
	)	
Hancock County Public Library	)	File No. SLD-318275
Sneedville, Tennessee	)	
	)	
Federal-State Joint Board on	)	CC Docket No. 96-45✓
Universal Service	)	
	)	
Changes to the Board of Directors of the	)	CC Docket No. 97-21
National Exchange Carrier Associations, Inc.	)	

**ORDER**

**Adopted: October 4, 2002**

**Released: October 7, 2002**

By the Telecommunications Access Policy Division, Wireline Competition Bureau:

1. The Telecommunications Access Policy Division has under consideration a request filed by Hancock County Public Library (Hancock County), Sneedville, Tennessee, seeking a waiver of the Commission's rules governing discounts for services under the schools and libraries universal service support mechanism.<sup>1</sup> Specifically, Hancock County requests a waiver of the filing deadline for Funding Year 2002 because of delays related to staffing changes at the library.<sup>1</sup> For the reasons set forth below, we deny Hancock County's Waiver Request.

2. Under the schools and libraries universal service support mechanism, eligible schools, libraries, and consortia that include eligible schools and libraries, may apply for discounts for eligible telecommunications services, Internet access, and internal connections.<sup>3</sup> In order to receive discounts on eligible services, the Commission's rules require that the applicant submit to the Schools and Libraries Division (SLD) of the Administrator a completed FCC Form

<sup>1</sup> Letter from Floyd W. Rhea, Hancock County Public Library, to Federal Communications Commission, filed July 30, 2002 (Waiver Request).

<sup>2</sup> See Waiver Request. Section 54.719(c) of the Commission's rules provides that any person aggrieved by an action taken by a division of the Universal Service Administrative Company (Administrator) may seek review from the Commission. 47 C.F.R. § 54.719(c). In prior years, Funding Year 2002 was referred to as Funding Year 5. Funding priorities are now described by the year in which the funding period starts. Thus the funding period that began on July 1, 2002 and ends on June 30, 2003, previously known as Funding Year 5, is now called Funding Year 2002. The funding period that begins on July 1, 2003 and ends on June 30, 2004 is now known as Funding Year 2003, and so on.

<sup>3</sup> 47 C.F.R. §§ 54.501–54.503,

470.<sup>4</sup> Once the applicant has complied with the Commission's competitive bidding requirements and entered into an agreement for eligible services, it must submit a completed FCC Form 471 application to the Administrator.' The Commission's rules require that the applicant file the FCC Form 471 by the filing window deadline to be considered pursuant to the funding priorities for in-window applicants.<sup>6</sup> The last day ~~of~~ the filing window for Funding Year 2002 was January 17, 2002 and all paper components of the FCC Form 471 had to be postmarked by that date for the application to be considered as filed within the window.'

3. Hancock County sent its FCC Form 471 application to SLD on January 18, 2002, one day after the filing window closed.' Because SLD does not have the authority to waive the Commission's rules, Hancock County requests a waiver of the filing window from the Commission.<sup>9</sup> In support of its request, Hancock County attributes its inability to file its application in a timely manner to an administrative change of staff at the library. ''

4. Hancock County's Waiver Request can be granted only if waiving the deadline is supported by a showing of good cause.'' A deviation from a general rule is not permitted unless special circumstances warrant it and the deviation would better serve the public interest than strict adherence to the general rule.<sup>12</sup> SLD reviews and processes thousands of applications each year, and therefore it is administratively necessary to place on the applicant the burden of complying with our rules and procedures.<sup>13</sup> Timely submissions are needed because, under the funding mechanism, all requests for funding received within the initial filing deadline must be analyzed together in order to be considered pursuant to our funding priorities for in-window applicants.<sup>14</sup>

5. We have traditionally held applicants to a high standard for waivers, noting that it is the applicant who is ultimately responsible for the timely submission of its application if the

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<sup>4</sup> 47 C.F.R. § 54.504(b).

<sup>5</sup> 47 C.F.R. § 54.504(c).

<sup>6</sup> 47 C.F.R. §§ 54.504(c), 54.507(c).

<sup>7</sup> SLD website, What's New Archives (January 10, 2002)  
<<http://www.sl.universalservice.org/whatsnew/012002.asp#011002b>>.

<sup>8</sup> FCC Form 471, Hancock County Public Library, filed January 18, 2002. Note the FCC Form 471 was filed online January 18, 2002 and the Block 6 Certifications and Signature pages were postmarked January 24, 2002.

<sup>9</sup> Waiver Request; *see* also Letter ~~from~~ Schools and Libraries Division, Universal Service Administrative Company, to Anita Hopkins, Hancock County Public Library, dated June 19, 2002 (Administrator's Decision on Waiver Request).

<sup>10</sup> *Id.*

<sup>11</sup> See 47 C.F.R. § 1.3.

<sup>12</sup> *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (appeals court vacating a Commission decision to grant a waiver in a licensing issue, because it was arbitrary and capricious).

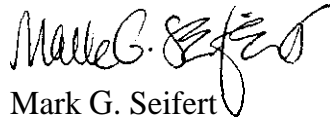
<sup>13</sup> *See Request for Review by Anderson School Staatsburg, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-133664, CC Docket Nos. 96-45 and 97-21, Order, 15 FCC Rcd 25610, para. 8 (Com. Car. ~~Bur.~~ 2000).

<sup>14</sup> *See* 47 C.F.R. §§ 54.504(c), 54.507(c)

applicant wishes to be considered with other in-window applicants.<sup>15</sup> How the applicant delegates responsibility for the application is not relevant to our analysis. Staffing problems do not relieve applicants of their responsibility to comply with our rules and procedures.<sup>16</sup> Therefore, we conclude that Hancock County **has** not demonstrated the existence of special circumstances sufficient to warrant a deviation from our rules, and therefore, we deny its Waiver Request

6. ACCORDINGLY, IT IS ORDERED, pursuant to authority delegated under sections 0.91, 0.291, 1.3, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 1.3, and 54.722(a), that the Waiver Request filed by Hancock County Public Library, Sneedville, Tennessee, on July 30, 2002, IS DENIED.

## FEDERAL COMMUNICATIONS COMMISSION



Mark G. Seifert  
Deputy Chief, Telecommunications Access Policy Division  
Wireline Competition Bureau

<sup>15</sup> See *Request for Review by Dermott Special School District, Hoven School District No. 53-2, Mastics-Moriches-Shirley Community Library, Mounds Public Schools, Reading-Muhlenberg Area Vocational-Technical School, Versailles Exempted Village Schools, Westbrook School Department, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File Nos. SLD-252111, SLD-261808, SLD-277850, SLD-265880, SLD-257325, SLD-270314, SLD-220712, CC Docket Nos. 96-45 and 97-21, Order, DA 02-643 (Conn. Car. Bur. rel. March 19, 2001).

<sup>16</sup> See, e.g., *Request for Review by Danbury Public Schools, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. NEC.471.04-13-00.31900001, CC Docket Nos. 96-45 and 91-21, Order, 16 FCC Rcd 10910 (Conn. Car. Bur. 2001) (denying waiver request in case when employee responsible for filing failed to do so).